

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 30, 2009
POSITION: Neutral

BILL NUMBER: SB 98
AUTHOR: R. Calderon

BILL SUMMARY: Life Insurance: Contracts and Viatical Settlements

This bill would require individuals who transact life settlement contracts to be licensed by the Insurance Commissioner (IC), specify requirements to obtain a license, authorize license fees, establish rules and regulations to govern life settlement transactions and regulate marketing practices, and authorize suspension or revocation of licenses, as specified. This bill would make it unlawful to issue or market the purchase of a new life insurance policy for the purpose of settling the policy, prohibit individuals from entering into a life settlement during the initial two years of a policy (with exceptions), require specified disclosures to consumers, and prohibit predatory practices such as false and misleading statements.

FISCAL SUMMARY

The California Department of Insurance (CDI) estimates Insurance Fund costs of \$262,000 in 2009-10, costs ranging from \$105,000 to \$195,000 in 2010-11, costs ranging from \$536,000 to \$1,158,000 in 2011-12, and ongoing costs ranging from \$452,000 to \$1,074,000 to implement this bill. Costs include technology modifications, additional staff, and one-time licensing and general expense costs. Actual staffing needs would be contingent on the number of individuals seeking licensure. Any request for additional resources would be subject to review and approval through the annual budget process.

The CDI estimates revenues ranging from approximately \$641,000 to \$1.1 million in 2010-11, approximately \$401,000 to \$802,000 in 2011-12, and ongoing revenues ranging from \$442,000 to \$966,000. This assumes that, in year one (2010-11), 50 percent of life agents would pay a license fee of \$136, full term, while the other 50 percent would pay \$68 since they have only one year left on their Life Agent License, which expires after two years. Life agents paying 50 percent would pay full term in year two and biennially thereafter. This also assumes a range of 300 to 600 new life settlement brokers each year, who would pay the full amount as a life settlement broker in year one. In year two, when they have one year left on their Life Agent License, they would pay \$68; biennially thereafter, they would pay full term.

Finance notes there may be potential impact on insurance premium taxes and personal income taxes, but such changes in tax revenues related to this bill would not appear to be major.

No reimbursement of any local cost would be required as the act creates a new crime or infraction, eliminates a crime or infraction, changes the penalty for a crime or infraction, or changes the definition of a crime.

COMMENTS

Existing law:

- Defines a "viatical settlement contract" as an agreement between a person who owns a life insurance policy on the life of a person with a catastrophic or life-threatening illness or condition and another person by which the policy owner receives compensation less than the death benefits of the insurance

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Analyst/Principal (0222) R. Baker	Date	Program Budget Manager Todd Jerue	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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COMMENTS (cont'd)

policy in return for an assignment, sale, or transfer of the death benefits or ownership of the policy as provided.

- Defines a "life settlement contract" as an agreement, other than a viatical settlement contract, for the purchase, sale, assignment, or transfer of the death benefit of a life insurance policy for compensation that is less than the expected death benefit of the policy.
- Requires a person be licensed by the IC prior to engaging in the business of viatical settlements. Life and disability agents, among others, must file a declaration with the IC that their agent license is valid and in good standing. The IC may suspend the agent's ability to transact viatical settlements if this requirement is not complied with.
- Makes it a misdemeanor for a person to enter into or solicit a viatical settlement without a license, or for a licensee to fail to comply with certain requirements.
- Requires viatical settlement licensees to make specified disclosures to applicants.

This bill would repeal the provisions relating to viatical settlements and would, instead, revise and recast the law to define viatical settlements and other specified financial arrangements as "life settlements," as specified.

Current law only allows CDI to regulate viatical settlements which are a subset of the larger life settlement market. This bill would protect consumers, particularly senior citizens, by sufficiently regulating the rapidly growing life settlement industry.

This bill would provide that it shall apply to any transaction involving any life insurance policy in effect, or entered into, on or after the operative date of the bill, and with certain exceptions, it would not apply to any life settlement contract entered into on or before July 1, 2010.

A similar bill, SB 1543 of 2008, was vetoed by the Governor to provide time for additional discussion to ensure that life settlement transactions contain proper notification and disclosure to consumers and that the bill doesn't unfairly exclude some companies from engaging in the legitimate life settlement market. While the Insurance Advisor indicates that discussions with the main opponent of SB 1543 (who is now neutral with the SB 98 version) have taken place and that the vast majority of the life settlement industry supports SB 98, the California Life Settlement Association (an opponent of SB 98) believes that SB 98 does not address the issues in the Governor's veto message.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Code
0845/Insurance	SO	No	C	\$262	C	\$105 - 195	C	\$536 - 1,158	0217
1233/Oth Ins Dept	RV	No		--	U	\$641 - 1,102	U	\$401 - 802	0217
<u>Fund Code</u>	<u>Title</u>								
0217	Insurance Fund								